

WATER COMMISSIONS

40:62-105. Necessary powers conferred

The municipality and the party so supplying water, their officers, agents or servants, shall have the necessary rights and powers to carry out the provisions of sections 40:62-96 to 40:62-104 of this title.

40:62-105.1. Water commissioners; election; to perform duties exercised by township committee

In any township wherein a water district has been established pursuant to section 40:62-96 et seq. of the Revised Statutes, the township committee may by ordinance provide for the election of water commissioners and said commissioners shall succeed to the duties presently exercised by the township committee together with such other duties as are herein contained.

P.L. 1951, c. 280, § 1, eff. June 25, 1951.

40:62-105.2. Commissioners to be body corporate; name; general powers

The commissioners thereof and their successors shall be a body corporate to be known by the name of "the commissioners of water district number , in the township of , and county of , " and shall have power to hold, purchase, lease and convey, in their corporate name, such real and personal estate as the purposes of the corporation shall require; to make and use a common seal; to sue and be sued; and shall have all other corporate power necessary for carrying out the powers hereinafter in this chapter conferred.

P.L. 1951, c. 280, § 2, eff. June 25, 1951.

40:62-105.3. Determination of amount to be raised for ensuing year; election of water commissioners

On the third Saturday in February after the creation of any such district the legal voters thereof shall meet and determine the amount of money to be raised for the ensuing year, and elect a board of water commissioners, to consist of five persons resident in such district.

P.L. 1951, c. 280, § 3, eff. June 25, 1951.

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40:62-105.4. Terms of members of board of water commissioners

At the first meeting of the board of water commissioners elected in any newly created district the members of the board shall divide themselves by lot into three classes; the term of the two members composing the first class shall be vacated at the expiration of the first year; the term of the two members composing the second class shall be vacated at the expiration of the second year, and the term of the one member composing the third class shall be vacated at the expiration of the third year, so that after the first election two members of the board of water commissioners shall be elected annually, except every third year when but one member shall be elected, all of whom shall hold office for three years and until their successors are elected.

P.L. 1951, c. 280, § 4, eff. June 25, 1951.

40:62-105.5. Vacancies

Whenever a vacancy occurs the board may elect a member to fill the vacancy until the next succeeding election at which time the voters of such district shall elect some person resident therein to fill such vacancy for the unexpired term only.

P.L. 1951, c. 280, § 5, eff. June 25, 1951.

40:62-105.6. Annual election in water districts

An election shall be held annually in each water district on the third Saturday in February at which the legal voters shall elect members of the board of water commissioners to fill the offices of those whose terms expire in such year, determine the amount of money to be raised for the ensuing year, and vote upon any other proposition submitted to such voters according to law.

P.L. 1951, c. 280, § 6, eff. June 25, 1951.

40:62-105.7. Nomination of candidates for members of board

Candidates to be voted for at the regular water district election for members of the board of water commissioners shall be nominated directly by petition.

P.L. 1951, c. 280, § 7, eff. June 25, 1951.

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40:62-105.8. Nominating petition; certificate of person indorsed

Such petition shall be addressed to the clerk of the board of water commissioners and shall set forth that the signers thereof are qualified voters of the water district in which they reside and for which they desire to nominate the candidate, that they indorse the candidate named in such petition for member of the board of water commissioners, and that they request that the name of the person so indorsed be printed upon the official ballot to be used at the ensuing election. The petition shall further state the residence and post-office address of each person so indorsed, and shall certify that the person so indorsed is legally qualified to be elected a member of the board of water commissioners. With the petition the person indorsed therein shall file a certificate stating that he is qualified to be elected a member of the board of water commissioners, that he consents to stand as a candidate for election, and that, if elected, he agrees to accept and qualify as a member of such body.

P.L. 1951, c. 280, § 8, eff. June 25, 1951.

40:62-105.9. One candidate's name on petition; number of petitions

No petition shall contain the names of more than one candidate so indorsed. The names of all the persons indorsing the same candidate need not be signed to a single petition. Any number of petitions of the same purport may be filed, but in the aggregate there shall be signed the names of at least ten persons.

P.L. 1951, c. 280, § 9, eff. June 25, 1951.

40:62-105.10. Verification of petition

Each of the petitions shall be verified by the oath of one or more of the signers thereof, taken and subscribed before a person qualified to administer an oath, to the effect that such petition is signed in their own proper handwriting by each of the signers thereof, that said signers are, to the best knowledge and belief of the affiant, legally qualified to vote at the ensuing election, and that the petition is prepared and filed in absolute good faith for the sole purpose of indorsing the candidate therein named in order to secure his election as a member of the board of water commissioners.

P.L. 1951, c. 280, § 10, eff. June 25, 1951.

40:62-105.11. Filing of petition

Such petition shall be filed at least five days before the date of the annual election for members of the board of water commissioners.

P.L. 1951, c. 280, § 11, eff. June 25, 1951.

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40:62-105.12. Defective nominating petitions

If any petition requesting that the name of the person so indorsed be printed upon the official ballot shall be found to be defective, the clerk of the board of water commissioners shall forthwith notify the candidate so indorsed, setting forth the nature of such defect and the date when the ballots will be printed, and the candidate indorsed on such defective petition shall be permitted to amend such petition either in form or substance so as to remedy such defect, at any time prior to the date set for the printing of such ballots.

P.L. 1951, c. 280, § 12, eff. June 25, 1951.

40:62-105.13. Ballots; arrangement of candidate's names

The names of the candidates shall be printed upon the official ballot according to the alphabetical order of their surnames and the grouping of two or more candidates upon any ballot to be used for the election of members of the board of water commissioners is hereby prohibited.

P.L. 1951, c. 280, § 13, eff. June 25, 1951.

40:62-105.14. Ballots, specifications

Each ballot shall have at the top thereof a coupon at least one inch deep extending across the ballot above a perforated line. The coupons shall be numbered consecutively from one to the number of ballots prepared for use in such election. Upon the coupon and above the perforated line shall be the words "To be torn off by the judge of election" and "Fold to this line." Below the perforated line shall be printed the words "Water district election ballot, " below which and extending across the ballot in one or more lines shall be the corporate name of the water district, the date of the election, and if the district be divided into two or more polling places the number, name or other mark or designation to distinguish the said polling place, and the printed facsimile signature of the clerk of the board of water commissioners. The heading shall be set apart from the body of the ballot by a heavy diagram rule. Below this rule shall be printed the following directions instructing the voter how to indicate his choice for the person for whom he may desire to vote and stating the maximum number of candidates he may vote for: "To vote for any person whose name appears on this ballot mark a cross (x), plus (+) or check () mark with ink or pencil in the place or square at the left of the name of such person." Below these instructions shall be printed a heavy diagram rule below which shall be printed such directions to the voter as may be necessary as "Vote for one, " or "Vote for two, " or a greater number as the case may be, immediately after which shall be printed the names of the candidates duly nominated by petition. The names of the candidates shall be printed as they appear signed to the certificate of acceptance, but no candidate who shall have failed to file a certificate of acceptance shall have his name printed upon the ballot. The same size and style of type shall be used in printing the name of each candidate; but

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between the names of the candidates shall be printed a heavy diagram rule and the space between each of the rules shall be exactly equal. Immediately after the space allotted to the names of candidates there shall be as many ruled blank spaces as there are members to be voted for. Immediately to the left and on the same line with the name of each candidate and blank space there shall be printed a square the same size of type in which the name of the candidate is printed, which type shall, in no case, be larger than twenty-four point.

P.L. 1951, c.280, s.14; amended 1994, c.77, s.17.

40:62-105.15. Form of ballot

The following is an illustration of the form of ballot:

No.....

To be torn off by the Judge of Election.
Fold to this line.

.....
WATER DISTRICT ELECTION BALLOT
Water District No. 1

Township of Webster, Warren County
February 14, 1926

Polling District No. 1 John Henry Doe,
Unexcelled Fire House. Clerk.

To vote for any person whose name appears on this ballot mark a cross (X), plus (+) or check () mark with ink or pencil in the place or square at the left of the name of such person.

For membership to Board of Water Commissioner--
Full Term. Vote for Two.

[] Rutherford B. Fallon.
[] William F. Seibel.
[] James A. Stephens.
[] Thomas Templeton.
[]
[]

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For membership to Board of Water Commissioners--
Unexpired One-Year Term. Vote for One.

[] Francis R. Loori.

[] Arthur H. Patterson.

[]

using as much of the form as may be applicable to the current water district election and extending the same to provide for cases not herein specified.

P.L. 1951, c.280, s.15; amended 1994, c.77, s.18.

40:62-105.16. Paper on which ballots to be printed

The ballots shall be printed on plain white paper uniform in size and quality and of such thickness that the printing thereon cannot be distinguished from the back of the paper and without any mark, device or figure on the front or back thereof except as provided in this chapter.

P.L. 1951, c. 280, § 16, eff. June 25, 1951.

40:62-105.17. Registry list of preceding general election; persons becoming of age after preceding general election

The clerk of the board of water commissioners shall at least seven days before the holding of such election obtain, from the person having them in charge, the registry list of the preceding general election for the municipality or municipalities, or election districts, comprised within such water district, and no person shall be permitted to vote at such water district election unless his name appears on such registry list, except that any person who shall have become of age since the preceding general election, and shall be otherwise possessed of all the qualifications which would entitle such person to vote in any general election, shall, upon application to the clerk of the board of water commissioners at least two days prior to the holding of such water district election be entitled to vote in said water district election.

Should any person so mentioned in this section make application as aforesaid the clerk of the board of water commissioners shall compile separately a register of such applicants and the list so compiled shall have the same effect for the purposes of such election as the registry list of the preceding general election and a person whose name appears thereon shall be entitled to vote at such water district election as if his name had appeared on the registry list of the preceding general election.

P.L 1951, c. 280, § 17, eff. June 25, 1951.

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40:62-105.18. Advertisement of election

The clerk of the board of water commissioners shall cause the election to be advertised at least one week before the holding thereof in some newspaper circulating in said water district.

P.L. 1951, c. 280, § 18, eff. June 25, 1951.

40:62-105.19. Polling places

Upon petition of twenty-five or more voters duly submitted at least twenty days prior to the date of the election the board of water commissioners may divide the water district into two or more polling places for the purpose of holding said elections.

P.L. 1951, c. 280, § 19, eff. June 25, 1951.

40:62-105.20. Opening and closing of polls; books for names of voters

The polls for the election shall be opened at such time as the board of water commissioners may designate, between the hours of two and nine post meridian, and shall remain open at least one hour or as much longer as may be necessary to poll the vote of the district. The board of water commissioners shall furnish suitable books in which shall be entered the names and addresses of each person voting within each of the municipalities, and no person shall vote at such election except as provided in section seventeen of this Title.

P.L. 1951, c. 280, § 20.

40:62-105.21. Proclamation of opening of election; judge and tellers

The board of water commissioners before they receive any vote shall make public proclamation by the chairman or the clerk of the opening of the election and of their readiness to receive the vote of the voters. A judge of elections and two tellers shall be elected by those present and thereupon the election shall be opened and the balloting shall continue without recess in accordance with the instructions printed upon the ballots used in such election and in accordance with the provisions of this chapter until the hour of closing.

P.L. 1951, c. 280, § 21, eff. June 25, 1951.

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40:62-105.22. Counting of votes

Immediately after the close of the polls the judge and tellers shall proceed forthwith to count the votes for each candidate and shall complete the count without delay or adjournment. The counting shall be open and public but not to such an extent that the number of persons present shall hinder, delay or inconvenience the election officers in counting the ballots and ascertaining the result. The judge and tellers shall fill out and certify to the correctness of the count and shall forward all ballots and tallies to the clerk of the board of water commissioners.

P.L. 1951, c. 280, § 22, eff. June 25, 1951.

40:62-105.23. Announcement of results of election

After the canvass of votes has been completed the judge of the election shall announce publicly the result of the election.

P.L. 1951, c. 280, § 23, eff. June 25, 1951.

40:62-105.24. Appropriations voted on, form of question

All appropriations to be voted upon at such water district election or any other proposition or question that may be required shall be placed upon the ballot immediately following the names of the candidates for election to the board of water commissioners in the following form:

Yes.	(Question to be voted on.)
No.	

If the voter makes a cross (X), plus (+) or check () mark in ink or pencil in the square of the left of and opposite the word "Yes, " it shall be counted as a vote in favor of said proposition. If the voter shall make a cross (X), plus (+) or check () mark in ink or pencil in the square to the left of and opposite the word "No, " it shall be counted as a vote against such proposition. If no such mark shall be made in the square to the left of and opposite either the word "Yes" or "No, " it shall not be counted as a vote either for or against such proposition.

P.L. 1951, c.280, s.24; amended 1994, c.77, s.19.

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40:62-105.25. Payment of taxes

a. The board of water commissioners shall certify the amount of money voted at the annual district meeting to the assessor of the township in which said district is situate, who, except as provided in subsection b. of this section, shall assess said money on the inhabitants of said district and their estates and taxable property therein in the same manner as township taxes are assessed and the money shall be assessed, levied and collected at the same time and in the same manner as other township taxes.

The collector or treasurer of the township in which said district is situate shall pay over all moneys so assessed to the treasurer or custodian of funds of said water district one-half on or before July 1 in the year for which said taxes are levied and the other half on or before January 1 of the following year, to be held and expended for the purpose of providing and maintaining means for supplying water in such district.

b. Property within the water district shall be exempt from the assessment authorized in subsection a. of this section if:

(1) The water supplied by the water district is not reasonably available to the owner of the property; and

(2) Prior to each annual assessment the board of water commissioners determines that the exemption would not adversely affect the ability of the water district to meet principal reduction and interest payments on outstanding bonds issued thereby.

P.L. 1951, c. 280, § 25, eff. June 25, 1951. Amended by L. 1985, c. 191, § 3, eff. June 20, 1985.

40:62-105.26. Borrowing for current expenses and repairs

The commissioners of water districts may by resolution borrow, after March first and before December thirty-first following, a sum not to exceed the amount appropriated at the election held in the district for the current year, for current expenses and for necessary repairs, less any sums received from the collector of taxes on account of such appropriation. They may execute and deliver promissory notes therefor and pay the amount so borrowed, together with interest thereon, at a rate not exceeding five per centum (5%) per annum.

P.L. 1951, c. 280, § 26, eff. June 25, 1951.

40:62-105.27. Rights and powers of water commissioners

The water commissioners of every water district shall have all the rights and powers, within said water district, which shall have been conferred upon townships by any statute relating to the supplying of water for public or private use.

P.L. 1951, c. 280, § 27, eff. June 25, 1951.

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40:62-105.28. Money for waterworks and appurtenances; vote; limitation

The legal voters of any water district may vote to raise, either at a special meeting called by the water commissioners of said district or at the annual meeting of the voters of said district, a sum for waterworks and appurtenances thereto for water purposes, not exceeding five mills on the dollar of the last assessed valuation of the property in said water district. The sum so appropriated shall be assessed in the manner provided by law, and be expended by said commissioners for such water purposes as in their judgment they may deem expedient.

P.L. 1951, c. 280, § 28, eff. June 25, 1951.

40:62-105.29. Meeting to determine amount to be raised; notice

If the water commissioners in any water district shall deem it expedient, they may call said special meeting, whereof ten days' notice shall be given by the commissioners, or a majority thereof, by posting notices setting forth the time, place and object of the meeting in five of the most public places in the district. At said time and place the legal voters or a majority present and voting shall elect a chairman and clerk of the meeting and determine the amount to be raised for acquiring the necessary appurtenances for the supply of water, not exceeding the sum of five mills on the dollar of the last assessed valuation of property in the district.

P.L. 1951, c. 280, § 29, eff. June 25, 1951.

40:62-105.30. Water accumulation, supply or distribution facilities; acquisition or construction

The water commissioners in any water district created by the township committee may acquire and construct any reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants and works, connections, rights of flowage or diversion, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the accumulation, supply or distribution of water; provided, however, that such water accumulation, supply, or distribution facilities are authorized and financed as provided in sections 31 to 34 of this act.

P.L. 1951, c. 280, § 30, eff. June 25, 1951. Amended by L.1977, c. 170, § 1, eff. Aug. 10, 1977.

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40:62-105.31. Resolution authorizing issuance of bonds; time and place of meeting; notices

The water commissioners shall cause a resolution authorizing the issuance of bonds for the purposes specified in section 30 of this act to be submitted to the legal voters of such water district. Such resolution shall be written or printed on notices together with a statement of the time and place where the meeting of such legal voters will be held and the purpose and object thereof. The time and place for the holding of such election shall be the same as the annual election of water commissioners and for the appropriation of moneys for water purposes in said district, or a special election may be called for the purpose. Not less than 10 notices of such meeting shall be posted by the clerk of the water commissioners at least 10 days before the date thereof in such manner and in such public places as he shall deem best for the purpose of giving notice of said meeting, and the board of water commissioners and the clerk shall also cause notices to be printed as an advertisement in a paper published in the district if there be one, and if not, in a paper published within the county where the district is located and circulating in said district. In case a special election is called, at least 10 notices of such election shall be posted at least 21 days before the date of such election, and in addition the clerk shall cause said notice to be published at least twice before said election is held, in a newspaper published in the district, if there be one, and if not, in a newspaper published in the township or county where the district is located and circulating in said district.

P.L. 1951, c. 280, § 31, eff. June 25, 1951. Amended by L.1977, c. 170, § 2, eff. Aug. 10, 1977.

40:62-105.32. Conduct of election

At any election held for the purpose of ordering money to be raised by the issuance of bonds, the legal voters shall vote by ballot, and the election shall be held and conducted as nearly as may be in the manner provided in sections seven to twenty-four of this act.

P.L. 1951, c. 280, § 32, eff. June 25, 1951.

40:62-105.33. Bonds; form; issuance

The legal voters of any such water district may, at the election at which such proposition is submitted, by the vote of a majority of those voting, authorize the board of water commissioners to issue bonds for the purpose set forth in section 30 of this act. Such bonds shall be serial bonds and shall be issued in the corporate name of such water district for such sums not exceeding the sum voted as aforesaid, and in such amounts and payable at such times as the legal voters so voting shall direct, with interest at a rate as such resolution or resolutions authorizing the issuance of such bonds shall provide, payable half-yearly. Said bonds shall mature within the period or average period of usefulness determined in the bond ordinance. Such bonds shall be signed by the president of the board of water commissioners and attested by the secretary of the board who shall affix the seal of said commissioners. Said bonds shall have coupons attached

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for the payment of interest, which coupons shall be signed by the clerk of the board of water commissioners, and shall be numbered to correspond to the several bonds to which they shall be severally attached. Bonds so issued shall be numbered and the proper registry thereof shall be kept by the clerk of said board of water commissioners. Such bonds may be sold at public or private sale for the best obtainable price, but not less than par and accrued interest.

P.L. 1951, c. 280, § 33, eff. June 25, 1951. Amended by L.1977, c. 170, § 3, eff. Aug. 20, 1977; P.L. 1979, c. 223, § 1, eff. Oct. 11, 1979.

40:62-105.34. Payment of principal, interest on bonds

a. Except as provided in subsection b. of this section, whenever such bonds shall have been authorized by the legal voters as aforesaid and the same shall have been issued, the clerk of the board of water commissioners shall annually issue to the assessor of the taxing district in which such water district is situate an order directing him to assess upon the owners of property in that water district, and their estates and the taxable property therein, an amount sufficient to pay the bond or bonds maturing in each year together with the interest accruing upon all the unpaid bonds of such township water district, which order shall be duly executed by the assessor. The money so assessed shall be assessed and levied by the assessor and collected by the collector of said taxing district, who shall, on or before July 1 next thereafter, pay the full amount so ordered to be assessed, levied and collected to the treasurer of the board of water commissioners, who shall pay the principal and interest as they become due and payable. If there be no funds available to pay any outstanding bonds, or the interest due thereon, the water commissioners may borrow money upon the promissory note of the water district, signed by the president and secretary of such water commissioners.

b. Property within the water district shall be exempt from the assessment authorized in subsection a. of this section if:

(1) The water supplied by the water district is not reasonably available to the owner of the property; and

(2) Prior to each annual assessment the board of water commissioners determines that the exemption would not adversely affect the ability of the water district to meet principal reduction and interest payments on outstanding bonds issued thereby.

P.L. 1951, c. 280, § 34, eff. June 25, 1951. Amended by L. 1985, c. 191, § 4, eff. June 20, 1985.

40:62-105.35. Custodian of moneys; disbursements; bond of treasurer

The district treasurer shall be the custodian of the moneys of the district and all moneys which the district commissioners are by law authorized to receive and disburse shall be paid to him and disbursed by him only on the warrant of the district commissioners signed by a majority thereof. Such treasurer shall give to the district the bond of a surety

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company, authorized by the Department of Banking and Insurance to do business in this State, in such sum as the district commissioners shall approve, conditioned for the faithful discharge of the duties of his office, which bond shall be filed with the board of water commissioners, the premium thereon to be paid by the district

P.L. 1951, c. 280, § 35, eff. June 25, 1951.

40:62-105.36. Auditing of books of treasurer; publication of audit

The treasurer shall cause his books to be audited at least once a year within thirty days after the expiration of the fiscal year and the secretary shall cause such audit to be advertised at least twice in a newspaper published in the municipality of which the district is part and if there is no newspaper published in said municipality, then in a newspaper circulating in said district. If the secretary shall neglect or refuse to publish the audit within five days after the first regular meeting subsequent to the delivery of the report to said board, he shall forfeit and pay the sum of one hundred dollars (\$100.00) which shall be recovered by an action at law by any person who shall bring suit for the same, one-half of which shall go to such person and one-half to the treasury of the district.

P.L. 1951, c. 280, § 36, eff. June 25, 1951.

40:62-105.37. Enlargement of water district

The township committee of any township in which there shall have been created a water district may by ordinance enlarge any such water district by extending the boundaries thereof to include therein as part thereof additional lands situate within the township and not then being within the boundaries of any water district. Such action shall not be taken until at least ten freeholders of the portion of the township proposed to be included within the extended boundaries of such water district shall first make application in writing to the township committee for the adoption of such ordinance. Such application shall set forth the boundaries of the land proposed to be added to such water district.

P.L. 1951, c. 280, § 37, eff. June 25, 1951.

40:62-105.38. Lands included in district after enlargement

Upon the adoption and publication of such ordinance by the township committee in the manner required by law, such water district shall thereafter for all purposes comprise the lands originally laid off and also such additional lands as shall be added thereto by such ordinance.

P.L. 1951, c. 280, § 38, eff. June 25, 1951.

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40:62-105.39. Effect of enlargement upon terms of officers and obligations of district

The enlargement of any water district under the provisions of sections thirty-seven and thirty-eight of this act shall not affect the terms or tenure of office of the water commissioners or other officers of such water district, nor shall it prejudice in any manner the bonds and obligations, if any, of such water district.

P.L. 1951, c. 280, § 39, eff. June 25, 1951.

40:62-105.40. Dissolution of water district

The township committee of any township wherein a water district shall have been organized may, by resolution authorized in the matter provided in section forty-one of this act, dissolve and abolish said water district. Upon the adoption of such resolution the water district shall be dissolved and abolished, and any moneys remaining in the hands of the treasurer of such water district shall be turned over to the treasurer of such township.

P.L. 1951, c. 280, § 40, eff. June 25, 1951.

40:62-105.41. Application for resolution dissolving district; notice; hearing

The resolution provided for in section forty of this act shall not be adopted except upon the written application of at least twenty freeholders of such water district. Upon receipt of such application the township committee shall fix a time and place for the hearing of such application and shall cause the clerk of such township to give notice of the time and place when a hearing will be given thereon. Such notice shall be published at least once in a newspaper circulating in the township, at least five days before the holding of said meeting. At the time and place so designated such township committee shall hear all parties desiring to be heard, and at such meeting or at an adjournment thereof the resolution shall be adopted or rejected.

P.L. 1951, c. 280, § 41, eff. June 25, 1951.

40:62-105.42. Refund of tax paid upon property in district abolished

The township committee may cancel or refund without interest to any person having paid the same any water district tax or any part thereof levied upon property in any water district which has been abolished, but the total amount which may be refunded shall not exceed the amount of money in the township treasury arising from appropriations made by said water district before it was abolished. All refunds so made pursuant to this section shall be charged against the account of said water district.

P.L. 1951, c. 280, § 42, eff. June 25, 1951.

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40:62-105.43. Refund of taxes paid where no recital of laying off of water district appears upon records

Where the legality of the organization of any township water district is questioned upon the ground that such water district was never laid off by metes and bounds by the township committee, and the collection of taxes for water purposes assessed and levied in any such water district is resisted upon that ground by twenty or more persons upon whose real or personal estate any such taxes have been assessed and levied, and no evidence or recital of the laying off of any such water district appears upon the records of such township, the township committee, upon the written application for such action by said twenty or more persons, may abate and remit all such taxes not paid and may authorize in writing the township collector to refund to the several persons who have paid the same all of such taxes in his hands, and upon such written authority such township collector shall refund to the several persons who have paid the same all of such taxes in his hands.

P.L. 1951, c. 280, § 43, eff. June 25, 1951.

40:62-105.44. Water district deemed abandoned when territory formed into two or more new municipalities

Whenever the territory included within the bounds of any water district shall have been divided and formed into or made parts of two or more new municipalities and no part of such district remains in the township of which such district when originally formed was a part, such water district shall be deemed to be abolished and the terms of office of the commissioners thereof terminated.

P.L. 1951, c. 280, § 44, eff. June 25, 1951.

40:62-105.45. Allotment and division of property and money between new municipalities; "municipality" defined

The governing bodies of such new municipalities and the treasurer or person having the custody of the funds and securities of such water district shall meet at a convenient place to be designated by the clerk of either of such new municipalities upon ten days' notice mailed to or served personally upon each of the members of such governing bodies and such treasurer or custodian, and shall then and there proceed to allot and divide between or among such municipalities all property, real and personal, money on hand, due or to become due, in proportion to the aggregate value of the buildings and contents which each shall take from the limits of such water district as ascertained from the last assessment for raising money for said water district. The result of such allotment and division shall be reduced to writing and show the amount of the funds on hand to be paid and transferred by said treasurer or custodian or said water district commissioners to each of said governing bodies and be signed by a majority of the members of said governing bodies present, and the inhabitants of said respective municipalities shall be liable to pay their proportion of the debts of said water district. A majority of the persons comprising

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such governing bodies shall constitute a quorum and may proceed to make the said division, and their decision shall be final and conclusive. Said meeting may be adjourned to such time and place within either of such municipalities as a majority of those present may deem proper. The amount to be paid or the property to be transferred to each municipality having been ascertained as aforesaid the said treasurer or custodian and said water district commissioners shall forthwith pay and transfer said funds to the treasurer or custodian of the funds of said municipalities in the manner ascertained and directed. The word "Municipality" as used in this section and section forty-four of this act includes any township, borough, borough commission, town or city.

P.L. 1951, c. 280, § 45, eff. June 25, 1951.

40:62-106. Consolidation of water and sewer systems

Any municipality owning its water and sewer systems and operating the same as separate utilities may by ordinance consolidate said water and sewer systems and operate the same as one utility and under one head or body.

40:62-107. Service shut off for nonpayment of rent

The governing body of any municipality owning its water and sewer systems and operating the same as one utility may fix a combination water and sewer rental, and in case prompt payment of said combined rent is not made according to the regulations adopted by said governing body cause said water to be shut off from such houses, tenements, buildings or other premises so supplied and not to turn the same on again until all arrears, with interest and penalties, shall be fully paid.

40:62-107.1. Sale of municipal water plant; deficit; amortization

In any municipality which has, prior to March twenty-fifth, one thousand nine hundred and thirty-five, owned a water distribution system which has been operated at a loss, and the governing body of such municipality has determined that it is to the best interests of the municipality to sell such system to a commission furnishing water to residents of the municipality, even though the price at which such system may be sold is less than the cost to such municipality of the construction of such system, and where the sale of such system results in a deficit, the municipality may by resolution direct that at least one-twentieth of the amount of the deficit shall be included in the budget or tax ordinance or tax levy for the year succeeding that in which such sale is made and each year thereafter.

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40:62-107.2. Application to state auditor

In each case, where a municipality is desirous of distributing the deficit as described in section 40:62-107.1 of this title, application for permission so to do shall be made by the governing body of such municipality to the state auditor. If the application shall be approved, the state auditor shall indorse thereon the word "approved" and append his signature thereto and return the same to the governing body of the municipality so applying. If the state auditor shall disapprove of the same, he shall indorse on the application the word "disapproved" and shall sign his name thereto and return the same to the governing body of the municipality, and each application shall be disposed of by the state auditor within ten days from the date of the receipt thereof by him.

40:62-107.3. Liberal construction

Sections 40:62-107.1 and 40:62-107.2 shall be liberally construed so as to give a measure of relief to municipalities during the present period of economic depression.

40:62-107.4. Purchase of water distribution system of adjoining municipality

Any municipality of this state, owning its water supply and supplying therefrom the water for the water distribution system owned and operated by an adjoining municipality, may by ordinance, the provisions of which shall be assented to by ordinance of such adjoining municipality, purchase such water distribution system of such adjoining municipality, and issue its bonds therefor.

40:62-107.5. Bond issue

Such bonds shall be issued in all respects as provided by article 1 of chapter 1 of this title (§ 40:1-1 et seq.), except that no filing of a supplemental debt statement shall be required and that such bonds may either be sold for cash and the purchase price of such water distribution system paid in cash, or such bonds may be delivered to such adjoining municipality in full or partial payment of such purchase price, and in that event may be disposed of by such adjoining municipality pursuant to resolution of its governing body. In making payment for such water distribution system, due regard and provision shall be given to any amount due for water supplied to such adjoining municipality under an existing contract for the supply of water, and to any liabilities, liquidated or unliquidated, incurred by such adjoining municipality with respect to such water distribution system, and to any other items of debt between the two municipalities.

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40:62-107.6. Operation of system; rates, rents, etc.

After any municipality shall have purchased a water distribution system pursuant to sections 40:62-107.4 and 40:62-107.5 of this title, it shall be authorized to operate such water distribution system as nearly as may be as a part of its own system, and any schedule of rates, rents, charges and penalties which it shall thereafter fix shall be applicable to water users within both municipalities, and in the collection of all such rates, rents, charges and penalties such municipality shall have all the rights and remedies which shall pertain to private corporations supplying water to municipalities of this state.

40:62-108. "Waterworks" defined

The term "waterworks" as used in sections 40:62-109 to 43:62-150 of this title means and includes one or more systems of waterworks, whether or not such waterworks extend into or supply water in other municipalities than those proposing to acquire or owning the same, and waterworks, rights and franchises owned by one or more persons and shall include rights and franchises to obtain an additional supply of water, and any or all other appurtenant property of such owner or owners.

40:62-109. Commission to acquire water system; appointment; notice to other municipalities

The governing body of two or more municipalities in which water is supplied for domestic and public use by privately owned waterworks, whether such waterworks are owned by one or more persons, may make application to the Superior Court for the appointment of a commission to acquire by purchase or condemnation such waterworks with all rights and franchises relating thereto, and the rights and franchises to obtain an additional supply of water, and any or all other property of the owner of such waterworks as may be necessary to maintain, operate, enlarge or extend the waterworks so acquired, and to enlarge, extend, maintain and operate the same to supply water in the municipalities acquiring such waterworks as aforesaid and all other municipalities theretofore supplied with water by said waterworks.

All of the municipalities so supplied with water shall be notified in writing of such application at least sixty days before it is made, and may join therein.

Amended by L.1953, c. 37, § 214, eff. March 19, 1953.

40:62-110. Commission; composition; organization and compensation; treasurer's bond

Every commission appointed in pursuance of section 40:62-109 of this Title shall consist of not more than five persons, residents of the municipalities making the application for their appointment and joining therein. The commission shall organize as soon as

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practicable by electing one of its number as president, shall appoint a secretary and a treasurer, who need not be members of the commission, and adopt a seal and a name whereby it may sue and be sued.

The secretary shall keep correct minutes of the meetings and transactions of the commission, and perform such other duties as may be required of him. The treasurer shall give bond for the faithful performance of his duties in such amount as the commission shall prescribe. The offices of secretary and treasurer may be held by the same person. The members of the commission shall receive for their services compensation to be fixed by agreement with municipalities having at least two-thirds of the population of all of the municipalities making the application for their appointment and joining therein, or, in case of failure to agree, by the Superior Court. The secretary and the treasurer shall each receive such compensation as the commission may determine.

Amended by L.1953, c. 37 § 215, eff. March 19, 1953.

40:62-110.1. Waterworks or water commission, membership, salaries

In any county of the second class with a population of at least 440,000, but not more than 450,000, according to the 1980 federal decennial census, in which at least three municipalities, two of which each have populations of 50,000 or more, but less than 100,000, and one of which has a population of 100,000 or more according to the 1980 federal decennial census, have joined together to create, under R.S.40:62-109, or elect or appoint under R.S.40:62-129, a waterworks or water commission, the provisions of this section shall control the number and method of appointment of the waterworks or water commission members, their terms of office and their salaries, notwithstanding the provisions of R.S.40:62-108 et seq. to the contrary. Any agreements entered into pursuant to R.S.40:62-129 shall be amended to conform with the provisions of this section.

a. The commission shall consist of seven members. A municipality with a population of 100,000 or more shall have three members on the commission and a municipality with a population of 50,000 or more, but less than 100,000, shall have two members on the commission. Members shall be appointed by the mayor in any municipality organized under P.L.1950, c.210 (C.40:69A-1 et seq.) and by the governing body, by a majority vote, in any municipality organized under R.S.40:79-1 et seq. A member of the commission shall be required to reside in the appointing municipality at the time of appointment; however, if the commission member moves outside the appointing municipality during the member's term of office, the member may continue to serve on the commission to the end of the member's term. A mayor, a manager or a member of the governing body of the appointing municipality may serve as a member of the commission unless this service is prohibited by the conflict of interest laws of this State.

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b. Each commission member shall be appointed for a four-year term. All additional members who may be appointed to a commission under this section shall be appointed before January 1, 1989, and their first term shall expire not later than December 31, 1992. All terms of office of commission members already appointed and serving on the effective date of this amendatory and supplementary act shall not be affected by the provisions of this act.

c. The salaries of the president and the members of the commission shall be as follows: The president shall receive a salary at the rate of \$8,500.00 annually as compensation for service on the commission; and any other member of the commission shall receive a salary at the rate of \$7,500.00 annually as compensation for service on the commission.

P.L. 1989, c.145, s.1.

40:62-111. Vacancies

Any vacancy in the commission shall be filled by appointment as herein before provided, and upon such notice as the Superior Court shall direct, and inability of any member of the commission to serve shall be treated as a vacancy. The application to appoint the commission or to fill any vacancy may be continued from time to time by the Superior Court to whom the same is made.

Amended by L.1953, c. 37, § 216, eff. March 19, 1953.

40:62-112. Joining after commission named

At any time after the appointment of the commission any municipality in which water is supplied by the waterworks which it is proposed to acquire, or which may have been acquired as provided in sections 40:62-108 to 40:62-150 of this title may be permitted to join with the municipalities making or joining in the application for the appointment of the commission, or owning the waterworks, on such terms and conditions as may be agreed on, provided that municipalities containing at least two-thirds of the population of all the municipalities seeking to acquire or owning such waterworks shall agree to permit such other municipality to join.

40:62-113. Negotiations; contract served on each municipality

Immediately after organization the commission shall proceed to negotiate for the purchase of the entire waterworks supplying water in the municipalities making the application for its appointment, and in the other municipalities, if any, supplied with water by said waterworks and may enter into a contract to purchase said waterworks for compensation to be agreed upon or fixed by condemnation proceedings as hereinafter provided. A copy of every contract to purchase said waterworks shall forthwith be served

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by the commission on each of the municipalities that made and joined in the application for the appointment of the commission and the contract shall become binding only as to such two or more of the municipalities that made the application for the appointment of the commission, and joined therein, as shall by resolution of their governing bodies file with the commission their assent thereto. Such assents shall be so filed within three months after the copies of the contract have been served on the municipalities by the commission, as herein before provided.

In all applications, orders, reports and proceedings a general description of the property to be condemned shall be sufficient.

40:62-114. Condemnation; two or more plants; procedure if in different counties

If the commission and the owner of the waterworks cannot agree on terms for the sale thereof, or if such proposed contract shall not become binding as herein provided, the commission may bring an action to condemn the waterworks pursuant to chapter one of Title 20 of the Revised Statutes. The commission may also invoke and exercise in the manner prescribed in said chapter for the purpose aforesaid, either in its own name, or in the name of any or all of the municipalities so supplied with water, all of the powers of such municipalities, or any of them, to acquire property for public use.

Amended by L.1953, c. 37, § 217, eff. March 19, 1953.

40:62-115. Municipality may withdraw; expenses apportioned; no withdrawals after bonds issued

Any municipality, by the adoption of an ordinance in the manner provided by law and upon giving the water commission and said owner or owners five days' notice in writing of the adoption of the ordinance, may, if the water commission shall not have taken possession of the waterworks, withdraw from the condemnation proceedings at any time within forty days after the entry of the judgment of the court in the action. Any municipality so withdrawing shall be liable for its proportion of the expenses paid or debts incurred by or on behalf of the municipalities in the proceedings to acquire such waterworks up to the date of withdrawal. After the withdrawal of one or more municipalities, the water commission shall continue the action on behalf of such two or more municipalities as shall not have so withdrawn. If all the municipalities joining in such condemnation shall withdraw from the same, the action for condemnation shall be abandoned by the commission within eighty days after the entry of such judgment, upon payment to the owners and other parties who have appeared before the commissioners or the jury, of their reasonable costs, expenses and counsel fees to be determined by the Superior Court and upon filing a discharge of the notice of lis pendens. In the event of such abandonment such costs, expenses and counsel fees shall be the joint and several obligations of all of the municipalities in behalf of which the condemnation action was instituted, but the municipalities shall be liable as among themselves for the payment of such sum in the proportion set forth in section 40:62-121 of this Title.

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If the water commission, pursuant to chapter one of Title 20 of the Revised Statutes, and after the passage and taking effect in each municipality in the manner provided by law, of ordinances authorizing the issuance of bonds as provided in section 40:62-121 of this Title, shall enter upon and take possession of said waterworks, no one or more of said municipalities shall thereafter have the right to withdraw from the condemnation action, nor shall the condemnation action thereafter be abandoned by the water commission.

Amended by L.1953, c. 37, § 218, eff. March 19, 1953.

40:62-116. Joint ownership

The waterworks acquired by the commission appointed in pursuance of section 40:62-109 of this title, whether by a single purchaser or two or more purchasers or by one, or more than one, condemnation proceeding, shall be the property of the municipalities making the application or applications for the appointment of such commission, excepting any municipality or municipalities which may have withdrawn as herein before provided, and authorizing the issuance of bonds, and the municipalities joining therein, as if they constituted a single municipality.

40:62-117. Expenses prior and subsequent to acquisition of plant

All expenses incurred prior to the acquisition of the waterworks shall be considered as part of the cost thereof. All expenses subsequently incurred for operating the waterworks and all other expenses and charges not properly chargeable to capital account shall be paid or set aside out of earnings.

40:62-118. Property acquired by owner pending proceedings; acquisition; contract

Upon taking possession of the waterworks, rights and franchises of any such public utility which may be condemned pursuant to the provisions of section 40:62-114 of this title, the commission acquiring the same shall also at the same time take possession of all the property, including all betterments, additions and extensions made on or to the property so condemned, and all rights and franchises which during the pendency of the condemnation proceedings have been acquired by the owner through construction, purchase, contract or otherwise for the purpose of rendering adequate service.

At any time after the commencement of the original condemnation proceedings the commission may enter into an agreement with the owner fixing the price to be paid for the after acquired property, rights and franchises, which agreement when made shall be severally binding upon each of the municipalities which are to own the waterworks and such after acquired property in the proportions that they are respectively liable under the provisions of section 40:62-121 of this title for the bonds therein authorized to be issued.

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40:62-119. After acquired property; condemnation

If the commission and the owner cannot agree upon the price to be paid for all the additional property, rights and franchises, including betterments, additions and extensions as aforesaid, prior to taking possession thereof, then within thirty days after taking possession, the fair value thereof as part of the waterworks condemned at the time possession thereof is taken by the commission shall upon the application of either the owner or the commission be determined pursuant to the provisions of chapter one of Title 20 of the Revised Statutes, except that the supplemental condemnation covering the after acquired property shall not be abandoned without the written consent thereto of the owner. The amount so determined as the price to be paid by the commission for the additional property, rights and franchises shall be a lien upon all the waterworks, rights and franchises so acquired by the commission until paid.

Amended by L.1953, c. 37, § 219, eff. March. 19, 1953.

40:62-120. Removal of encumbrances; ascertainment of value of debt

Whenever, pursuant to sections 40:62-108 to 40:62-150 of this Title, the commission shall condemn any waterworks free and clear of the lien of any mortgage or mortgages thereon, then upon the taking of possession by the commission of the waterworks and the payment of the award therefor into the court no further interest shall accrue upon such mortgage or mortgages.

Upon the application of either the owner of the waterworks condemned or of the holder of any such mortgage or mortgages or of any debt secured thereby, the Superior Court shall determine the value of the debt secured by each such mortgage as of the date of such payment into court. In making its determination the court shall give due regard to the date of maturity of any such debt, the rate of interest provided to be paid thereon and such other factors as shall properly determine the value of such debt as of the date of such payment into the court. The sum of sums so determined shall upon such determination be paid out of the moneys so paid into the Superior Court to the persons found by the court to be entitled thereto.

Amended by L.1953, c. 37, § 220, eff. March 19, 1953.

40:62-121. Acquisition subject to encumbrances; bond issues; apportionment of indebtedness

Any such waterworks may be acquired subject to the lien of any mortgage or mortgages thereon; and for the purpose of raising money to pay the cost of acquiring the waterworks so acquired or to be acquired, whether by purchase or condemnation, and to pay the cost, or part of the cost, of enlarging, extending and improving the same, the municipalities which are to own the waterworks or the enlargements, extensions and improvements to

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the same may issue at one time or from time to time permanent serial bonds and in anticipation of the issuance of such permanent serial bonds, temporary bonds, and pay such temporary bonds from the proceeds of sale of the permanent serial bonds.

Such municipalities may issue such bonds jointly in the names of all such municipalities, in the same manner and pursuant to the same provisions of law that apply to the issuance of other municipal bonds, and each municipality shall adopt such ordinances and resolutions and cause such bonds to be sold, executed and delivered as if such bonds were its own separate obligations; or each municipality may issue and sell its own bonds separately for its proportion of said costs, as hereinafter provided.

The proceeds of sale of said bonds shall be received by the treasurers of the municipalities and except in the case of funding bonds issued to pay temporary bonds immediately be transferred to the commission or any succeeding commission then in office.

The power to issue bonds and their validity shall not be dependent on or affected by the validity or regularity of the proceedings to establish the commission or to acquire the waterworks or to make the enlargements, extensions or improvements thereof, and said bonds shall be direct obligations of the municipalities issuing the same and if not otherwise paid, shall be paid by general tax.

The bonds so issued, if jointly and severally issued, shall be the joint and several obligations of the municipalities in whose names they are issued, but the municipalities shall be liable as among themselves for the payment of the principal and interest thereon in the proportion that the assessed value for taxation of all the real estate in each of the municipalities for the year preceding the time when such waterworks shall be acquired bears to the total assessed value for said year of all the real estate in all of the municipalities joining in the issuance of said bonds.

If the municipalities shall decide to issue separate bonds, the bonds so issued shall be the obligations of such municipalities respectively, and the amount thereof shall be fixed in the same proportion as herein before provided in the case of joint and several bonds.

40:62-122. Commission as fiscal agent; duties

The commission appointed pursuant to section 40:62-109 of this title and any succeeding commission, however appointed or elected, shall be the fiscal agent of all municipalities represented by the commission for direct payment to the holders of the principal of and interest on all obligations of such municipalities, the payment of which the commission or its successors has or shall have hereafter formally assumed as provided in sections 40:62-108 to 40:62-150 of this title.

The chief financial officer of each such municipality shall furnish the commission or its successors with the names and addresses of the registered holders of such obligations as

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they may appear in his records, and shall promptly provide the commission with such other information from his records pertaining to such obligations and the payment of the principal thereof and interest thereon which the commission or its successors may request.

The commission or its successors shall have power to do all acts and things necessary or advisable to carry out its functions and perform its duties as such fiscal agent for the purpose hereof expressed.

Nothing herein contained, nor any act or thing done or to be done by the commission or its successors pursuant to this section, shall be construed as the assumption by the commission or its successors of the payment of any obligations or interest thereon not otherwise formally assumed as provided in said sections 40:62-108 to 40:62-150.

Nothing herein contained shall be construed to relieve any municipality issuing such obligations from its liability to pay the same from an unlimited ad valorem tax levied on all the taxable property in such municipality. Nothing herein contained shall be construed to confer upon the commission power to issue any bonds or other obligations in the name of any municipality where the power to issue such obligations is vested solely in the municipality.

40:62-122.1. Issuance of notes in anticipation of water rents

An act to authorize two or more municipalities in this state by means of a commission to acquire, either by purchase or condemnation, and operate privately owned waterworks now or hereafter supplying water therein, and in other municipalities, if any, in which water is supplied by the same waterworks, together with the franchises, rights, and any or all other appurtenant property of the owner or owners, of such works, and to enlarge and extend the same, ' passed March twenty-third, one thousand nine hundred and twenty-three, constituting chapter one hundred and ninety-five of the Pamphlet Laws of one thousand nine hundred and twenty-three, " approved March twenty-seventh, one thousand nine hundred and thirty-six, saved from repeal. [This supplement authorizes the issuance of negotiable notes, by any commission appointed pursuant to the original act, in anticipation of its receipts on account of fees, rentals and charges for the sale of water. The amount and maturity of these notes are limited, and by section 2 the act is declared inoperative on January 1, 1942.]

40:62-123. Apportionment of water rents; collection of prior arrearages

As soon as convenient after taking possession the commission shall cause to be read all meters of consumers supplied from such waterworks. At least two days' notice shall be given to the owner in advance of the meter reading and the owner may have a representative present at the reading. The total sum due as shown by the meter readings shall be divided in the ratio in which the period of time that has elapsed between the last

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preceding meter reading and the date the commission takes possession bears to the period of time that has elapsed between such date and the date of meter reading taken by the commission. The owner shall be entitled to the proportion of the total sum due that shall correspond to the period during which it had possession of the waterworks between its last previous meter reading and such date. All sums shown to be due by the meter reading by the commission shall be collected by it and the owner shall assign to it for the purpose of making such collections its proportionate interest therein as herein before defined. The commission shall use all legal methods for the collection of all sums shown to be due by its meter reading and shall pay over to the owner promptly such parts of the sums of money so collected as may be due to the owner.

40:62-124. Collection of prior arrearages; water shut off

If at the time possession is taken by the commission of any such waterworks any person shall be indebted to the owner thereof for water supplied or furnished therefrom, and shall neglect, fail or refuse for a period of sixty days after the indebtedness becomes due to pay the amount thereof to such owner, the commission upon the filing with it of an affidavit by the owner showing the amount due shall upon ten days' notice to the delinquent debtor shut off all water then being supplied or furnished to the delinquent debtor from the waterworks, and shall keep the supply shut off until the delinquent debtor shall pay the owner the amount of the indebtedness.

40:62-125. Supply of water to old customers; rates

After the commission shall have acquired possession of the waterworks of any such owner it shall carry out any obligation to supply water to any person which the owner would have been required by law to carry out if its waterworks had not been so acquired.

Nothing in this section shall operate to affect the power of the commission to fix rates.

40:62-126. Enlargement and extension of works; contracts for operation

Enlargement and extension of works; contracts for operation; financing improvements. The commission appointed pursuant to section 40:62-109 of this Title and any succeeding commission, however appointed or elected, may enlarge and extend the waterworks and operate the same, or may make a contract for a period not exceeding ten years, or a succession of contracts each not exceeding said period, with any person, to operate such waterworks on such terms as may be agreed upon. If pursuant to this section 40:62-126 or section 40:62-144 or any other provision of sections 40:62-108 to 40:62-150 of this Title, enlargements, extensions or improvements to or in connection with the waterworks have been made and paid for prior to July first, one thousand nine hundred and forty, with funds other than proceeds of bonds or other obligations of the municipalities owning the waterworks, then upon request by resolution of the commission created pursuant to

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section 40:62-129 of this Title to maintain, operate and extend the waterworks, the municipalities represented by it may incur indebtedness, borrow money and issue their negotiable bonds in amounts sufficient to realize in the aggregate an amount specified in such request not exceeding the amount of funds other than such proceeds theretofore expended by the commission and any predecessor commissions for such enlargements, extensions or improvements. A certificate of the treasurer of the commission delivered to the governing bodies of such municipalities shall for all purposes constitute conclusive evidence as to the description of such enlargements, extensions and improvements and as to the amount, nature, description, source, receipt and disbursement of funds expended for such enlargements, extensions and improvements. The respective amounts to be raised and realized by each municipality represented by the commission shall be fixed in the same proportion as provided in section 40:62-121 in the case of joint and several bonds issued to raise money to pay the cost of the waterworks. Said bonds shall be deemed to be issued for the purpose of financing such enlargements, extensions or improvements and shall be authorized and issued in the method or mode of procedure, prescribed by article one of chapter one of this Title (section 40:1-1 et seq.), except that the bonds shall be conclusively presumed to be authorized and issued for a purpose defined in said article as self-liquidating and shall mature within forty years after the making of such enlargements, extensions or improvements, the ordinance authorizing the bonds may be finally passed notwithstanding the provisions of section 40:1-12 of said article, and the sale of said bonds shall be made simultaneous with or contingent upon the sale by other municipalities of bonds authorized pursuant to said request of the commission. All such bonds shall be subject to call for redemption by the commission, upon three months' notice at any time after five years of issuance. Said bonds shall not be sold except with the consent of the commission and with its approval of the maturities of and rates of interest payable on said bonds. Such consent and approval may be given by resolution of the commission and shall be and constitute a formal assumption by the commission of said bonds, and the interest thereon. The amount realized from the sale of said bonds, after deducting therefrom the cost of issuance of said bonds, shall be paid over to the commission. For all the purposes of sections 40:62-122 and 40:62-127 of this Title, said bonds so issued shall be deemed to be and shall constitute debt incurred by a municipality represented by the commission in connection with the waterworks and extensions thereto and enlargements thereof, formally assumed by the commission appointed pursuant to section 40:62-109 of this Title and its successors.

Amended by L.1940, c. 179, § 1, eff. July 8, 1940.

40:62-127. Water rates and regulations

Such commission may prescribe and change from time to time rates to be charged for water supplied by the waterworks so acquired, and by any extension or enlargement thereof, but rates for the same kind or class of service shall be uniform in all the municipalities supplied by the waterworks; except that no rates shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act, " P.L.1971, c.136 (C.26:2H-1 et seq.) and

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regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979, " P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any commission from charging for the actual cost of water main connection.

The supplying of water to locations beyond the boundaries of the municipalities owning the waterworks shall be basis for separate classification of service to permit reasonable differentiation of rates. As soon as practicable after acquiring the waterworks, rates shall be prescribed, and shall be revised from time to time whenever necessary, so that the waterworks shall be self-supporting, the earnings to be sufficient to provide for all expenses of operation and maintenance and such charges as interest, sinking fund and amortization, so as to prevent any deficit to be paid by taxation from accruing. The interest, sinking fund and amortization shall be construed to include:

- a. All service on debt heretofore or hereafter incurred by the commission or by any municipality represented by the commission in connection with the acquisition of such privately-owned waterworks, and any extensions thereto and enlargements thereof, heretofore or hereafter formally assumed by the commission or its successors, and
- b. All service on debt heretofore or hereafter incurred by the commission or by a municipality represented by the commission, or its successors, and heretofore or hereafter formally assumed by the commission, or its successors, as part of any agreement with the municipality relative to the acquisition, by the commission, or its successors, of the ownership of or the management and control of or the right to use any water supply or part thereof or interest therein or any distribution system of water mains and connections, or any part thereof, which any such municipality may own or control.

The provisions of this section shall be deemed a contract with the holders of all obligations which shall be or may have been issued for the purpose of financing such acquisitions or which heretofore have been or may hereafter be issued to refund temporary bonds or obligations issued for such purposes, the payment of any of which obligations, and interest thereon, the commission, or its successors, has heretofore or may hereafter formally assume as aforesaid.

The commission and any succeeding commission may prescribe, and alter and enforce all reasonable rules and regulations for the maintenance and operation of the waterworks and the collection of rates.

Amended 1960, c.172; 1981, c.514, s.3; 1991, c.162, s.2.

40:62-128. Sale of property and distributing system; sale of water to purchaser

The commission appointed in pursuance of section 40:62-109 of this title or by virtue of an agreement as provided for in section 40:62-129 of this title, may sell any part of the property in its charge not needed for public use, and may also sell to any municipality the distributing system of mains therein and enter into a contract to supply water in quantity

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to the municipality purchasing such distributing system, but no distributing system shall be sold to any municipality without the consent of the governing bodies of the municipalities owning the same having at least two-thirds of the population of all such municipalities. The proceeds of any sale of any part of the property or of any distributing system or part thereof, shall be used and applied only in payment of the principal of the unpaid bonds, if any, theretofore issued for the acquisition or enlargement or extension of the waterworks.

40:62-129. Commission to operate works and manage supply; agreement for

At any time after waterworks shall have been acquired in pursuance of sections 40:62-108 to 40:62-150 of this title, the governing bodies of the municipalities owning the same may enter into an agreement prescribing a method of electing or appointing a commission to succeed the commission appointed as provided in section 40:62-109 of this title. The agreement so made shall specify the number of persons to constitute the commission, their term or terms of office, method of organization, and powers, duties and compensation, but the members of the commission may agree to serve without, or at a nominal compensation. Such agreement shall also provide for the appointment or election of a secretary, treasurer, and such other officers as may be necessary, and prescribe their duties and compensation, and contain such other provisions as may be necessary for the maintenance and efficient operation of such waterworks, the extension and enlargement thereof, and the proper management of its financial affairs; and may be amended from time to time.

The governing bodies of all municipalities owning the waterworks shall have an opportunity to approve or disapprove any proposed agreement or amendment thereof, and any such agreement or amendment thereof shall be valid when assented to by the governing bodies of the municipalities containing at least two-thirds of the population of all municipalities owning such waterworks.

40:62-130. Organization; commission for acquisition of works dissolved

The commission elected or appointed in pursuance of such agreement shall organize as soon as practicable, adopt a seal and a name by which it may sue or be sued, and enter upon the discharge of its duties, whereupon the terms of office of the members of the commission appointed in pursuance of section 40:62-109 of this title shall cease.

40:62-131. Consent of state

In all cases in which the owner of waterworks purchased or condemned in pursuance of sections 40:62-108 to 40:62-150 of this title has at the time of such purchase or condemnation the consent of the state to take and divert water from any source for domestic and public use, the rights obtained by such consent shall pass to and vest in the

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municipalities acquiring the waterworks as provided in said sections 40:62-108 to 40:62-150, and no further or other consent of any state board or commission shall be necessary. The municipalities shall be bound by all the terms and conditions attached to such consent and accepted by the owner of the waterworks purchased or condemned.

Nothing in said sections 40:62-108 to 40:62-150 shall be interpreted to affect the power and authority of the state water policy commission over the sources of water supply in this state.

40:62-132. Commission cannot incur debts for municipality; appropriations for expenses

The commission shall have no power to incur any liability on behalf of the municipalities and none of its debts, expenses or liabilities shall bind the municipalities except with their consent expressed by resolution of their respective governing bodies. The municipalities may from time to time make appropriations for the commission upon such terms and conditions as may be determined.

40:62-134. Sale of surplus water; laying of pipes; consent required

The commission or its successor may sell any surplus water not needed to supply the municipalities represented by it to any consumer or to any private water company in this State supplying water to consumers, or any municipality outside of the municipalities represented by the commission, as provided by contracts with the water company which the commission took over as part of the property condemned, and outside of any territory supplied in whole or in part by the water company at the time of taking over the water works. It may also lay, construct and maintain such pipe lines and mains as may be necessary for such purpose in any public highway or place, or acquire by purchase or condemnation any private lands or rights in lands for that purpose. The consent of the public body charged with the repair and maintenance of any public highway or place shall first be obtained, or if such board or body shall refuse such consent, then in such place and in such manner as the Board of Public Utility Commissioners after hearing may fix and determine. The consent also of the governing body of the municipality in which such customers are to be supplied with water shall be first obtained.

Amended by L.1949, c. 160, § 1, eff. May 19, 1949.

40:62-135. Contracts; engineers and assistants

The commission may make all necessary and proper contracts, in the manner hereinafter provided and elect or appoint any and all engineers, surveyors, officers, agents and employees that it may deem necessary or convenient for accomplishing the purposes of providing and supplying with water any municipality and its inhabitants which it is

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authorized to supply, and to define their duties, regulate their compensation and provide for their removal.

40:62-136. Contracts in excess of \$2,500; advertisement for bids; exceptions

Whenever any work to be performed or materials to be furnished may involve an expenditure of a sum exceeding \$2,500.00, the commission shall designate the time when it will meet at its usual place of meeting to receive proposals in writing for doing such work or furnishing such materials, as the case may be, and shall thereupon order that notice shall be given by advertisement in 1 or more newspapers circulating in 1 or more of the municipalities represented by the commission, at least 10 days before the time of the meeting. The advertisement shall specify the dimensions and quality of the work to be done or materials to be furnished. All the proposals shall be publicly opened in the presence of those who choose to attend, and the commission may reject any or all proposals, and advertise for new proposals, and the contract for the work and materials, when awarded, shall be awarded to the lowest responsible bidder.

This section shall not be construed to apply to the compensation of specially retained advisers, and when the exigency of the service of an emergency threatening the continuity of the water supply shall be declared by resolution passed by the unanimous vote of the members of the commission, which resolution shall set forth the nature of the exigency or emergency, and shall state the approximate cost of the work in excess of \$2,500.00 necessary to be done to meet the exigency or emergency, the necessity for advertising and receiving proposals provided for in this section shall not apply.

Amended by L.1960, c. 94, § 1, eff. July 7, 1960.

40:62-137. Execution of contract

All such contracts shall be in writing, and shall be executed by the president and secretary of the commission, on behalf of and in the name of the commission, and under its seal. No party shall be allowed to enter upon any work or furnish any material until the contract shall have been so executed. Every person entering into any such contract with the commission shall give satisfactory security for the faithful performance thereof according to its terms, with surety to be approved by the commission.

40:62-138. Control, regulation and protection of water supply system

The commission may make, enforce, amend and repeal all such resolutions and regulations as it may deem necessary and proper for the distribution, supply, use and protection of the water supplies, and the protection of the buildings, machinery, canals, aqueducts, reservoirs and other works and appurtenances thereto; for the installation and protection of meters, and for fixing and collecting the water rents or prices for water, and for imposing penalties in addition to cutting off the water for nonpayment thereof.

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40:62-139. Furnishing water for special purposes

The commission may enter into a contract with any person to supply such person with water for fire protection; manufacturing and irrigation and other special purposes, at rates and upon conditions to be designated by the commission. Thereupon such person shall pay to the commission the rate and all other charges stipulated therein, instead of the usual rates charged to other customers of the commission; except that no rates or charges shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act, " P.L.1971, c. 136 (C. 26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979" , P.L.1979, c. 496 (C. 55:13B-1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any commission from charging for the actual cost of water main connection. Nothing herein contained shall alter or affect the lien hereinafter imposed for unpaid water rents or rates, nor change the rights of the commission to collect unpaid water rates or rents in accordance with the provisions hereof.

Amended by L.1981, c. 514, § 4, eff. Jan. 12, 1982.

40:62-140. Right of entry for inspection; penalty for obstructing inspectors

All engineers, surveyors, officers, agents, employees or committeemen appointed for the purposes provided in sections 40:62-133 to 40:62-150 of this title may enter upon any land or water for the purpose of making any and all surveys and examinations necessary, and at all reasonable hours enter any dwelling or other place where the water so furnished is taken or used, and where unnecessary waste thereof is known or suspected, and examine and inquire into the cause thereof, and may examine all service pipes, stopcocks and other apparatus connected with the water supply or drainage works, for the purpose of ascertaining whether the same are of the character and dimensions, and fixed in the manner by the rules of the commission regulating the same.

If any person shall refuse to permit the examination, or oppose or obstruct an engineer, surveyor, officer, agent, employee or committeeman in the performance of such duties, the person so offending shall have the supply of water shut off until the required examination is made and such alteration and repairs as may be necessary shall be completed.

40:62-141. Liability for water rent; payment in advance

The owner of any house, tenement, building or lot shall be liable for the payment of the price or rent as fixed by the commission for the use of water by such owner or by the occupier, and for the installation, purchase price, repair and testing of any water meter or water meters, water service, water services, connections, appliances or parts, and

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renewals thereof furnished or made by the commission, in, upon or connecting with such house, tenement, building or lot and the interest and penalties charged.

The price or rent so fixed, and the other costs, expenses, interest and penalties shall be a lien upon such house, tenement, building or lot until the same shall be paid and satisfied, and shall be enforceable by an action at law in any competent court.

The commission shall notify the officers or board having charge of the collection of taxes in each municipality in which the commission shall supply water to any of the inhabitants of such municipality, that the commission is supplying water to such inhabitants, and requesting said officials or board to notify all persons applying for a certificate showing municipal or other liens against property in such municipality, that the applicant must apply to the commission to ascertain the amount of water rents or other charges due to the commission, which are by law made a lien upon the premises covered by the certificate.

The commission may require payment in advance for the use or rent of water furnished by it and for any work to be done or materials to be furnished.

40:62-142. Water shut off for nonpayment of charges

In case prompt payment of any water rent or rents, or for work done or materials furnished, is not made when due, the water may be shut off from such real estate, and shall not be again supplied thereto until the arrears with interest and penalties shall be fully paid.

40:62-143. Rebate for prompt payment; amount

The commission may grant to consumers a rebate or discount for the prompt payment of water rent or rates within a specified time after such water rent or rates shall become due. Such rebate or discount shall not exceed the sum of ten cents on each one dollar or fraction thereof due for water rent or rates, and no rebate or discount shall be granted unless such rents or rates be paid within thirty days after the same shall become due. The sum so granted as a rebate or discount shall be fixed and determined by resolution of the commission.

40:62-144. Increase of capacity of plant; additional pipe lines

The commission may increase the capacity of any waterworks, plant or plants owned by it, either by the construction and erection of new and additional buildings or otherwise, and the purchase of other or larger pumps, machinery and apparatus; extend any system of water distribution either within or without any municipality authorized to be supplied by it, by laying additional mains or lateral connections, or by relaying or enlarging existing mains and pipes, as the commission shall deem necessary; and cause to be

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constructed additional pipe lines or mains to connect any reservoir or water supply in its control, located outside the limits of the municipalities represented by the commission, with any reservoir or supply pipes or mains within such municipalities.

40:62-145. Contracts for additional supply of water

The commission may enter into contracts from time to time, for a period not exceeding fifteen years, with any other municipality having waterworks, or with any private corporation owning or controlling waterworks, to obtain any additional supply of water for public and private uses of the inhabitants of the municipalities represented or supplied by the commission.

40:62-146. Supplying water to other municipalities; consent required

The commission may contract with any municipality or municipalities to furnish a supply of water for such other municipalities and their inhabitants, for public and private uses, for the term of a year or years. There shall first be obtained the approval of the State board or department having jurisdiction of such matters, which approval and consent such commission or other board or departments may withhold or grant upon such terms as it may deem proper, but in case approval and consent are withheld, the reason for such withholding shall be furnished by the department or board to the commission applying therefor. The contract may provide for the payment to the commission by the municipality annually or otherwise of the sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters described in R.S.40:62-127 or in any other manner, as the contract or contracts may provide, and may provide that the sum or sums so payable to the commission shall be in lieu of all or any part of the water rents which would otherwise be charged and collected by the commission with regard to the dwellers within the municipality. The contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by the municipality and which may be agreed to by the commission in conformity with its contract with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by the municipality prior to authorization or execution thereof. The municipality is authorized to perform any acts necessary, convenient or desirable to carry out the contract and to provide for the payment or discharge of any obligation thereunder in the same manner as are other obligations of the municipality. Subject to these contracts with the holders of bonds, the commission is authorized to perform any acts necessary, convenient or desirable to carry out the contract and, to provide for the payment or discharge of any obligation thereunder in the same manner as are other obligations of the municipality. Subject to these contracts with the holders of bonds, the commission is authorized to perform any acts necessary, convenient or desirable to carry out the contract and, in accordance with the contract, to waive, modify, suspend or reduce the water rents which would otherwise be charged and collected by the commission with regard to the dwellers within the municipality, but nothing in this section or the contract shall prevent the commission

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from charging and collecting, as if the contract had not been made, water rents with regard to the dwellings sufficient to meet any default or deficiency in any payments agreed in the contract to be made by the municipality.

Amended 1991, c.162, s.12.

40:62-147. Supplying water to dwellers along line; rates; consent required

The commission may supply with water, dwellers in municipalities, other than those represented by the commission, through which its mains may pass, and for that purpose may lay mains and pipes in or under any street, road, avenue, alley or public place in such other municipality. Such water shall be supplied to dwellers in other municipalities upon the same or as favorable terms and conditions as water shall be furnished to other similar customers of the commission. The consent of the municipal authorities of such other municipality to the supplying of its dwellers with water shall be first obtained.

40:62-148. General powers to carry out objective

Subject to any contracts with the holders of bonds, the commission may adopt all ordinances and resolutions, enter into all agreements and contracts, and do any and all other acts and things necessary to provide water for the public and private uses of its customers in accordance with the provisions of R.S.40:62-133 to R.S.40:62-150.

Amended 1991, c.162, s.19.

40:62-149. Powers of condemnation

If the commission and the owner of any property, or interest therein which the commission is authorized to acquire, cannot agree on terms for the sale or lease thereof, the commission may acquire it by condemnation in the manner prescribed in sections 40:62-114 to 40:62-116 of this title.

40:62-150. Certain boards and commissions unaffected

Nothing in sections 40:62-133 to 40:62-150 of this title shall be construed to affect the power or authority of the North Jersey district water supply commission or the South Jersey district water supply commission, or the state water policy commission.

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40:62-150.1. Names of employees of water commissions established by two or more municipalities in second class counties between 300,000 and 325,000

Any water commission, established pursuant to sections 40:62-108 to 40:62-150 of the Revised Statutes, by two or more municipalities in counties of the second class now having a population between three hundred thousand and three hundred and twenty-five thousand shall, upon written petition regulating the same, signed by a majority of the employees of said water commission employed by it on the effective date of this act, certify to the Civil Service Commission the names of all those employees, including the secretary-treasurer, employed by the said commission on the effective date of this act.

P.L. 1949, c. 289, § 1, eff. May 28, 1949.

40:62-150.2. Classification, without examination in classified service

When the names of such employees, including the secretary-treasurer, have been certified the Civil Service Commission shall classify, without examination, the employees so certified in the classified service and such employees shall thereafter be subject to all the provisions of subtitle three of Title 11 of the Revised Statutes, with respect to tenure, classification and compensation.

P.L. 1949, c. 289, § 2, eff. May 28, 1949.

40:62-151. Annual stand-by or ready-to-serve charge upon unoccupied lots

The governing body of any municipality or any water commission representing two or more municipalities may fix an annual stand-by or ready-to-serve charge upon any unoccupied lot abutting upon a street wherein a water main has been laid and to which the lot may connect; provided, however, no such service charge shall be made for any lot fronting on a water main which water main has heretofore been assessed as a local improvement or for which water main the owners of said lot paid under a contract with the municipality. The said service charge shall be rendered and collected in the same manner as other bills for water service are rendered and collected.

P.L. 1949, c. 194, § 1, eff. July 4, 1949.